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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 MICHAEL GILBERT,

12 Plaintiff,

13 v.

14 C. HEARN,

15 Defendant.
16

No. 2:20-CV-0384-DMC-P

ORDER

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to
18 42 U.S.C. § 1983. Pending before the Court is Defendant's unopposed motion to compel. See
19 ECF No. 20.

20 The purpose of discovery is to "remove surprise from trial preparation so the
21 parties can obtain evidence necessary to evaluate and resolve their dispute." United States v.
22 Chapman Univ., 245 F.R.D. 646, 648 (C.D. Cal. 2007) (quotation and citation omitted). Rule
23 26(b)(1) of the Federal Rules of Civil Procedure offers guidance on the scope of discovery
24 permitted:

25 Parties may obtain discovery regarding any nonprivileged information that
26 is relevant to any party's claim or defense and proportional to the needs of
27 the case, considering the importance of the issues at stake in the action, the
28 amount in controversy, the parties' relative access to relevant information,
the parties' resources, the importance of the discovery in resolving the
issues, and whether the burden or expense of the proposed discovery
outweighs its likely benefit. Information within this scope of discovery

need not be admissible in evidence to be discoverable.

Fed. R. Civ. P. 26(b)(1).

Under Rule 37 of the Federal Rules of Civil Procedure, "a party seeking discovery may move for an order compelling an answer, designation, production, or inspection." Fed. R. Civ. P. 37(a)(3)(B). The court may order a party to provide further responses to an "evasive or incomplete disclosure, answer, or response." Fed. R. Civ. P. 37(a)(4). "District courts have 'broad discretion to manage discovery and to control the course of litigation under Federal Rule of Civil Procedure 16.'" Hunt v. County of Orange, 672 F.3d 606, 616 (9th Cir. 2012) (quoting Avila v. Willits Envtl. Remediation Trust, 633 F.3d 828, 833 (9th Cir. 2011)).

The party moving to compel bears the burden of informing the court (1) which discovery requests are the subject of the motion to compel, (2) which of the responses are disputed, (3) why the party believes the response is deficient, (4) why any objections are not justified, and (5) why the information sought through discovery is relevant to the prosecution of this action. McCoy v. Ramirez, No. 1:13-cv-1808-MJS (PC), 2016 U.S. Dist. LEXIS 75435, 2016 WL 3196738, at *1 (E.D. Cal. June 9, 2016); Ellis v. Cambra, No. 1:02-cv-5646-AWI-SMS PC, 2008 U.S. Dist. LEXIS 24418, 2008 WL 860523, at *4 (E.D. Cal. Mar. 27, 2008).

"Relevance for purposes of discovery is defined very broadly." Garneau v. City of Seattle, 147 F.3d 802, 812 (9th Cir. 1998). "The party seeking to compel discovery has the burden of establishing that its request satisfies the relevancy requirements of Rule 26(b)(1). Thereafter, the party opposing discovery has the burden of showing that the discovery should be prohibited, and the burden of clarifying, explaining or supporting its objections." Bryant v. Ochoa, No. 07cv200 JM (PCL), 2009 U.S. Dist. LEXIS 42339, 2009 WL 1390794, at *1 (S.D. Cal. May 14, 2009) (internal citation omitted).

In this case, Defendant served interrogatories and requests for production of documents on March 17, 2021. See ECF No. 20-2, Exhibits A and B. To date, Plaintiff has failed to serve any responses whatsoever. See id. at 2. The Court has reviewed the interrogatories and requests for production served by Defendant and finds that they seek relevant discovery. Given Plaintiff's failure to serve responses or oppose Defendant's motion,

Defendant's motion will be granted.

Accordingly, IT IS HEREBY ORDERED that:

1. Defendant's unopposed motion to compel, ECF No. 20, is granted;
2. Plaintiff shall serve written responses to Defendant's interrogatories and requests for production, without objection, and provide responsive documents, within 30 days of the date of this order;
3. Plaintiff is cautioned that failure to comply with this order may result in dismissal of the entire action;
4. Except to the extent a further motion to compel may be necessary following service of Plaintiff's responses, discovery is closed; and
5. The Court sua sponte extends the dispositive motions filing deadline to January 10, 2022.

Dated: July 29, 2021



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE